

# Art in Public Places Program Policy

Adopted April 10, 2012, Resolution No. 2012-18

## I. GENERAL POLICY

This policy gives guidance and provides procedures for funding, selecting and locating public art within the City. The policy promotes funding, creation and installation of public Artwork as well as flexibility in locating Artworks to maximize their visibility.

## II. MISSION STATEMENT

To promote community access to art, integrate it into daily life and create community interest that will enrich the economic vitality and cultural vibrancy of the city, creating a unique identity for Fremont.

## III. PROJECTS SUBJECT TO THE POLICY

This policy shall be applicable to the construction of every new public building and park constructed by the City of Fremont with an engineer's estimated construction cost of \$1,000,000 or more and other projects designated by the City Council. This policy shall not apply to renovations and reconstruction of public buildings and parks. This policy shall also be applicable to privately financed and owned buildings within areas designated by the City Council for publicly viewable private art and at the option of the owner for buildings in other areas. Contributions of funds by the City to or other involvement of the City in a private development project shall not change the characterization of a project as a private development project.

## IV. DEFINITIONS OF ARTWORK

For the purpose of this policy, unless it is plainly evident from the context that a different meaning is intended, certain terms are defined as follows:

1. "Art in Public Places" means any visual work of art displayed for two weeks or more in an open City owned area, on the exterior of any City owned facility, public areas, lobbies, or public assembly areas or on any non-City property if the work is installed, financed, either wholly or in part, with City funds, or grants procured by the City.
2. "Public Art in Private Places" means Artwork located and financed by private developers or owners within public view or access.
3. "Artwork" may include, but is not limited to, the following categories: sculpture, monument, mural, fountains, fresco, relief, painting, mosaic, ceramic, weaving, carving, stained-glass, wood, metal, plastic. Artwork would normally not include general landscaping, paving, architectural ornamentation, or signage. Works may be portable as well as fixed.

The following items are not to be considered fine art works:

- a. Directional elements such as super graphics, signage, or color coding except where these elements are integral parts of the original fine art works.
  - b. Art objects which are mass produced from a standard design such as playground equipment, fountains, flags, or banners.
  - c. Reproductions, by mechanical or other means of original fine art works.
  - d. Decorative, ornamental, or functional elements which are designed by the building architect as opposed to an artist commissioned for the purpose of creating art work.
  - e. Landscape architecture and landscape gardening except where these elements are designed by the artist and are an integral part of the fine art works by the artist.
  - f. Services or utilities necessary to operate or maintain the Artwork over time.
4. "Permanent Installation" will be any art in a public place intended to remain for one year or more.
  5. "Temporary Installation" will be any art in a public place intended to remain for less than one year.

## V. PROCEDURE

1. The City Council shall appoint to a five-member Art Review Board ~~from~~ City-community members in accordance with the criteria set forth in section VIII to a staggered term of two years. This Board will serve as a continuing group of art experts who will advise the City in artistic matters and selection of art in public places. The City Manager shall appoint a City staff person to act as the liaison to the Art Review Board and the City Council (hereafter referred to as Art Liaison).
2. Artwork funded by this policy is not required to be located on the site of the City project that contributes the funds for the Artwork. The Art Review Board may recommend, due to the project location or other factors, that the project should not incorporate an Artwork. Where a project subject to this policy does not incorporate an Artwork, the funds shall be placed the public art and shall be allocated for Artwork to be placed on a City owned site that is more visible or otherwise more suitable for a public art work.
3. An account of the total budget for a particular Artwork shall be established by the City or private developer, as the case may be:
  - a. When schematic designs are begun for any new public building or park project or other public project designated by the City Council, or private development project that will incorporate and install an Artwork; or
  - b. When it is determined to install an Artwork on a City owned site as a separate stand alone project and not in conjunction with a City improvement project. Upon the establishment of the account for a particular Artwork, the Art Review Board

will begin developing the art procedure as described in section 4 below.

4. The Art Review Board shall initially consult with the City staff and the project architect, if any, and shall consult with them thereafter as needed. Then, an art procedure will be developed for the particular Artwork, consisting of the designation of a proposed site, the media to be used, the selection process to be used, and an estimated schedule for the selection and fabrication and installation of the Artwork.
5. After the above consultations and the confirmation of funds for the project, the Art Review Board will determine if funds will allow for one or more artists to participate. (The 1% policy will not necessarily be limited to the involvement of only one artist in each project. In the case of an exceptionally large project with respectively large funds, or a project that may involve multiple art installations, the Art Review Board may decide to involve several artists to more effectively achieve the Art in Public Places Program mission.)
6. The Art Review Board will decide upon a method of selection of the Artwork to be considered most appropriate for the situation. Methods may include: open competition, limited competition, invitation, or direct purchase.
7. The Art Review Board will give the artists general guidelines or parameters of the project. Artists in final selection will present maquettes and itemized cost breakdowns of the art project for review. The Art Review Board will make a final selection of the artist(s) and proposed Artwork(s) to recommend to the decision making bodies as described in subsection 8 below.
8. The Art Review Board's recommendations about art in City parks will be made to the Recreation Commission for recommendation to the City Council, while recommendations for art in all other locations will be made to the Planning Commission, for recommendation to the City Council. If the Planning Commission does not have discretionary authority over the project, the Art Review Board will make its recommendations directly to the City Council. The City Council shall make the final decision on whether to accept the Art Review Board's recommendations.
9. After selection of the artist(s) and approval of a proposal, the Planning Director's designee will negotiate and execute a contract with the artist(s). Thereafter, the City staff will monitor the contract performance and coordinate the fabrication and installation of the Artwork with the project architects and contractors. When appropriate, the Art Review Board will also develop a suitable public education program in connection with the Artwork.
10. It is suggested the artist(s) be selected at the schematic design phase, so the artist(s) and the architect can work together toward a totally integrated design solution.

## VI. CRITERIA FOR SELECTION OF ART

In performing its duties with respect to the Art in Public Places Program, the Art Review Board shall give special attention to the following matters:

1. The mission statement of the Art Review Board,
2. All forms of visual art,
3. The architectural, geographical, social/cultural context of the site, and
4. To acquiring art that reflects diversity if style, scale, form, materials, media, and artistic sources, as well as diverse cultural perspectives.

## VII. CRITERIA FOR SELECTION OF SITES

When selecting a site for installation of public art the Board will take into the consideration the following:

1. Visibility
2. Viewer's perspective
3. Public safety
4. Public accessibility
5. Relationship of Artwork to existing and future architecture/architectural features, natural features, urban design
6. Users
7. Future development
8. Landscape design
9. Environmental impact

## VIII. CRITERIA FOR SELECTION OF ART REVIEW BOARD

There shall be created an Art Review Board consisting of five (5) persons. All five will be residents of Fremont. Not less than three of the Board members will be experienced visual performing artists, architects, art educators, art scholars or art collectors whose expertise and skills are known and respected in the community. Up to two of the Board members may be lay persons who have an interest in public art.

Other criteria are that all appointees be:

1. Knowledgeable about contemporary visual art, particularly public art.
2. Capable of engaging effectively in a jury process.
3. Open minded and responsible.
4. Willing to carry out the City's Art in Public Places Program Policy.

The members of the Art Review Board will work in coordination with the Art Liaison,

project manager, project designer, users of the building, developers, and the Planning Commission or Recreation Commission as outlined in this policy.

Further duties of the Art Review Board shall include:

1. To advise the City in matters pertaining to the quality, quantity, and scope of art in public places.
2. To periodically review the program with the Art Liaison and other members of the City staff as appropriate.
3. To devise methods of selecting and commissioning artists for placement of art in public places.
4. To advise and assist the City in obtaining financial assistance from private, corporate, and governmental sources for art in public places.
5. To review installations of Artwork.
6. To review inventory of art in public places and to advise as to maintenance of Artwork.
7. To advise and assist private property owners who desire advice on art in public view.

#### IX. THE ART BUDGET

1. City 1% Funds. City projects subject to this policy will allocate an amount equal to one percent (1%) of the estimated construction cost of the project towards Artwork (1% Funds). If Artwork will not be incorporated with the project the funds shall be placed in a public art fund maintained by the City, where they may be combined with funds contributed by other projects. If Artwork is included in a project and not all the funds contributed by the project will be used, the remaining funds shall be placed in the public art fund where they may be combined with funds contributed by other projects. Funds from the public art fund may be allocated to a project subject to this policy in addition to the 1 % Funds contributed by the project. Funds from the public art fund may also be allocated to develop and install an Artwork on a City site as a separate stand alone project and not in conjunction with a City project. Any funds donated or contributed to by civic-minded individuals or organizations to supplement the 1% Funds shall be placed in the public art fund.

Each project subject to this policy shall include the 1% Funds as a project cost in the cost estimates that accompany and are approved with the project plans and specifications.

2. Specific Artwork Costs. Further financial arrangements will be as follows:
  - a. All financial arrangements for a specific Artwork are to be negotiated between the City and the artist and are to be set forth in a written agreement.
  - b. All eligible costs for a specific Artwork are to be taken into account as expenses and are to be determined in advance. The Artwork budget will include, but is not limited to, all the following costs within the Art in Public Places Program:

- i. Structure which enables display of Artwork.
  - ii. All artists' costs to include: materials, labor, fabrication, travel, transportation of art to site, and installation.
  - iii. City's administrative costs incurred in the process of selection, fabrication, and installation of Artwork.
  - iv. Project architect fees as additional services in connection with the art work.
  - v. Documentation (color slides and black and white photography) of the Artwork's fabrication and installation and a plaque to identify the Artwork and artist.
  - vi. Honorarium and expenses for art consultant to Art Review Board.
  - vii. Dedication ceremony.
- 3. The artist will submit a cost statement prior to the contract award (or during the final phase of competition) to the Art Liaison.
- 4. If a proposal is to be selected by means of invitation or limited competition, the artist is paid to develop the proposal. A standard contract will be used in this instance.
- 5. In the case of a competition, each final artist (limited to five artists) will present maquettes and proposals for final selection. Each of these artists will be paid an amount not to exceed five hundred dollars (\$500) per artist.
- 6. Suggested expenditure of the Artwork budget will be as follows:
  - a. Twenty percent (20%) maximum allowance for administrative costs, including any specific allocation or budget for preliminary maquettes requested by the Board prior to their development by the artist. Any portion of the maquette budget not expended by the artist(s) will become part of the final compensation as noted in subsection c below.
  - b. Fifty percent (50%) of budget to artist(s) at the award of contract.
  - c. Thirty percent (30%) of budget plus any unexpended allocation from the preliminary maquette budget to artist(s) within thirty (30) days after installation.

## X. PUBLIC ART IN PRIVATE PLACES

The City of Fremont General Plan encourages private developers to incorporate Artwork such as sculpture, fountains, murals, or other visual displays, into their projects finding that incorporation of Artwork will further enhance these developments and will greatly contribute to the quality of life in Fremont, as well as the growth of greater cultural awareness in our community.

- 1. Public Art in Private Places is optional to developers with projects in the City of Fremont unless the project is within an area (Art Zone or District) designated by the City Council for publicly viewable private art.

2. Developers interested in public art in public or private places will be given the policy guidelines for reference by the City when submitting a development proposal. Private developers may choose to make a cash contribution toward civic-minded City-planned art in public places projects. This contribution could benefit the developer as a tax deductible donation.
3. The members of the Art Review Board shall annually appoint a Board member and an alternate Board member to serve as the Art Board Representative. The Art Board Representative will be available to meet with development review staff and private developers in providing advice and assistance, when requested. Additionally the appointed Art Review Board Representative will serve to provide advice and assistance during the development review process for private projects in the Downtown, greater City Center, or other City Council designated art zones or districts wherein private Artworks are required of new development.

## XI. TEMPORARY INSTALLATIONS, DONATIONS, AND BEQUESTS

The City of Fremont will only consider offers of Artworks to the City that are Temporary Installations, donations that are gifts, or bequests. A donor who wishes to make such an offer must send a letter to the City of Fremont containing the following information.

1. The type of donation being made.
2. Documentation materials of the Artwork being offered for donation including pictures, slides, size, medium, title, year of creation, and a resume of the artist if possible.
3. Maintenance requirements of the Artwork.
4. A document showing that the Artwork is free of encumbrance.
5. A release letter by the donor, should the City decide to release the Artwork in the future.

The City of Fremont will acknowledge receipt of the donated Artwork without valuation for tax purposes. The donor must find other means of establishing the value of the Artwork.

The Art Liaison will present all proposals to the Art Review Board for consideration. Based on this recommendation and the Planning or Recreation Commission's recommendation, if applicable, the City Council will decide on accepting all offers of donated Artworks and will notify donors of its decisions within ninety (90) days.